

## Committee of Thirteen Report

December 11, 2007

The Committee of Thirteen of the Benton County Quorum Court met Tuesday, December 13, 2007 at 6:00 P.M. in the Quorum Court Room, County Administration Building, Third Floor, 215 East Central, Bentonville, Arkansas.

12 JPs Present: Brown, Glass, Harrison, Hill, Hobbs, Hubbard, Moore, Summers, Williams, Winscott, Wolf, Wozniak  
1 Absent: Stephenson  
Others Present: County Judge Gary Black, Sheriff Keith Ferguson, Judge Jay Finch, County Attorney Robin Green, Richard McComas, Kathy Bannister, Jeff Hawkins, Chief Don Townsend, Major Gene Drake

Media: Jennifer Turner – Daily Record, Scarlet Simms – Morning News

JP Tim Summers called the meeting to order.

### **PUBLIC COMMENTS:**

### **NEW BUSINESS:**

#### **1. Illustration of Long Range Plan for Benton County Jail – JP Frank Winscott**

JP Winscott gave a presentation illustrating the value of long range planning, and projected growth in the County Jail population based on the data from previous years. He explained that the inmate population has increased 166% over the last 8 years, doubling from 1999 to 2003, which is a much higher rate of increase than the county's 36% increase in total population. He noted that the increase has continued during a period of economic prosperity when unemployment and crime rates are typically low. He said that the average rate includes a temporary decrease in the inmate population in the two-year period following the expansion of a state facility in 2004, and since there is no reason to expect a similar occurrence, this is a very conservative estimate of growth. JP Winscott explained that the same methods for projecting growth could be applied to the entire judicial system, including the number of judges and the expansion of the Juvenile Detention Center.

Sheriff Keith Ferguson was recognized and stated that his job is to put criminals in jail, not mathematics, but that one reason for difference in the rates of increase between the general population and the inmate population is the 67% return rate which creates a swinging door situation at the jail.

#### **2. Resolution Request: Authorizing Application for Drug Court Grant**

JP Wolf made motion to forward a resolution to the December Quorum Court agenda, seconded by JP Hill. Grants Administrator Kathy Bannister explained that they are applying for up to

\$200,000 total, and the 25% county match will be met with a state paid position. JP Wolf asked if the grant is renewable. Kathy Bannister stated that they will have to reapply. JP Winscott asked if the county would incur any expense after the program is terminated. Kathy Bannister stated that they would have to decide if they wanted to continue funding a position if the grant is not awarded in the future. Judge Jay Finch was recognized and introduced the Drug Court team—Probation Officer Randy Sanders, Administrative Assistant Brenda Marshall, Counselor Michelle Barrett, Probation Officer Michael Webb, and Public Defender Dee Scritchfield. Judge Finch stated that the Drug Court is currently serving 77 clients. JP Summers noted that there is only one counselor. Judge Finch stated that the state funded another counselor position in August, but has only recently filled the position, which is a rather chaotic way to hire people. He said that he anticipates that the state will fund another counselor position, perhaps two, in the next two years.

Motion passed by unanimous show of hands vote.

### **3. Ordinance Request: Regional Mobility Authority**

JP Wolf made motion to forward an ordinance to the December Quorum Court agenda, seconded by JP Wozniak. JP Wolf explained that the ordinance will give County Judge Gary Black the authority to enter into the agreement forming the Regional Mobility Authority with Washington County. Scott Van Laningham stated that once the agreement is reached between Washington and Benton Counties, 5 first class cities will have to join, and the public entity that is formed will be subject to public meeting rules and the Freedom of Information Act, and will also have to get voter approval for any tax proposal. He explained that state law dictates that the board be made up of the two county judges (or their designees) and the 5 mayors (or their designees), so there is accountability at the local level. He added that this would be the first Regional Mobility Authority in the state.

JP Summers urged support of the ordinance, and said that in light of the information provided by JP Winscott concerning growth in the area, the infrastructure needs must be addressed, and he cannot think of a fairer way to present it to the public. JP Wolf stated that she believes that the Arkansas Highway and Transportation Department will look more favorably on the Northwest Arkansas area if there is a partnership working.

JP Glass stated that he agrees that the partnership is desperately needed but he is uneasy about 50% of the board constituting a Quorum at the organizational meeting. Scott Van Laningham stated that when the board is formed, they may address that question, but there will need to be a balance. He added that it was a concern when the Northwest Arkansas Regional Airport Authority was first formed, because Benton County has 8 members on the board, but Washington County has 6, but it has not been a problem.

JP Hobbs expressed concern over the authority having the power of eminent domain, and asked what would happen if Benton County does not participate. Scott Van Laningham stated that Washington County could form its own authority, and for that matter so could Benton County. JP Hobbs asked what the advantage is in not addressing our own needs and letting Washington County address theirs. Scott Van Laningham stated that so many of the needed projects stretch over the 2-county area, such as the Bella Vista bypass and the Springdale bypass that it would make sense for the two counties to work together. JP Hobbs asked why each county could not form its own authority, and then the two authorities could work together. Scott Van Laningham stated that they could, but it could lead to duplication of services and design work and would be more

difficult. JP Wolf stated that it could also dilute the state funding. JP Wozniak stated that if two counties are working together, they would have more clout in Little Rock than one county working alone. JP Hobbs stated that it has been explained to her that highway tax dollars are not distributed based on population, so she does not think that is a legitimate argument, and she just received the ordinance so she has not had time to research it. She asked if it is the intent to read the ordinance at three separate meetings. JP Summers stated that he felt they should pass all three readings at one meeting, because it is an important issue that needs to move forward. JP Hobbs stated that she needs time to talk to her constituents because eminent domain is a big issue.

JP Winscott asked if they are voting on an agreement which the board can supersede and change. Scott Van Laningham stated that the ordinance that has been drafted gives the County Judge the authority to enter into the agreement, but the Quorum Court can alter the agreement at any time. JP Glass stated that he does not see the ordinance as giving the regional mobility authority the power to change the terms of the agreement; he feels that the Quorum Court would have to make any changes. JP Glass asked what constitutes a quorum on the Regional Airport Authority board. Scott Van Laningham stated that it is 50% plus one.

JP Hobbs asked if 50% plus one is the vote that would be required of the board to declare eminent domain. Scott Van Laningham stated that is correct.

JP Hubbard stated that hearing eminent domain reminds him of a 20/20 special where they heard about peoples' land just being taken. He said he believes that the Highway Department has already purchased half of the rights of way for the Bella Vista bypass project, and asked if the Regional Mobility Authority would just play the eminent domain and take the other half. Scott Van Laningham stated that the Bella Vista bypass is presently a State Highway Department project, and they can already use power of eminent domain if they need to, but he is not sure of the project's status at this point. He said the Springdale bypass is also currently a State Highway project, and if the partnership is formed as they envision, the State would continue to acquire the rights of way for the project, then partner with the RMA and turn the project over to the authority for construction. Mike Malone stated that his understanding of the Bella Vista bypass project is that the State Highway Department has enough federally earmarked funds to complete the right of way acquisitions for the Arkansas portion of the project.

JP Glass stated that concerning eminent domain, once the route is determined, the government cannot just take the land without compensating the owner of the land, and they will be paid what the land is worth, which is usually determined by independent appraisers. JP Williams asked how many first class cities are in Benton and Washington Counties. Scott Van Laningham stated that there are 13 total, but they may not all choose to participate, although the legislation requires there to be at least 5. He added that since the two major projects they are talking about are the Bella Vista bypass and the Springdale bypass, he would expect that those two cities will want to participate, along with Bentonville, Fayetteville, and hopefully Rogers, but he is not sure how many of the smaller cities will want to participate. JP Williams asked what the funding mechanism is for the start up of the authority. Scott Van Laningham stated that in the early stages, the Northwest Arkansas Council, which is a private organization, will offer staff services to the RMA until they identify a project and funding source for it that they want to take to the voters.

Motion passed 11 votes in favor, 1 opposed (Hubbard).

#### **4. Ordinance Request: Designating Preparer of the Tax Books**

JP Wolf made motion to forward an ordinance to the December Quorum Court agenda, seconded by JP Moore. Comptroller Richard McComas stated that the ordinance has been prepared to define the duties and deadlines of all of the different offices involved in providing information used in the final settlement. JP Summers asked if the County Attorney has reviewed the ordinance. County Attorney Robin Green stated that she has, and it spells out the penalties for non-compliance for some elected officials if certain documents are not prepared in a timely manner. Richard McComas pointed out that the county faces the loss of approximately \$900,000 in re-appraisal fees if certain reports are not turned in to the state on time.

Motion passed by unanimous show of hands vote.

#### **5. Ordinance Request: Amending Code of Ordinances – Quorum Court Agenda**

JP Moore made motion to forward an ordinance to the December Quorum Court meeting, seconded by JP Wolf. Deputy Clerk Betsy Deaton stated that since the *Code of Ordinances* book will be sent off in the next few months for re-codification, the County Clerk drafted this ordinance so that the procedures that are currently being followed by the Quorum Court in regards to agenda preparation and the order of business are accurately described in the Code Book.

Motion passed by unanimous show of hands vote.

#### **6. Ordinance Request: Amending Code of Ordinances – Sales and Use Tax Single Transaction**

JP Wolf made motion to forward an ordinance to the December Quorum Court agenda, seconded by JP Glass. County Attorney Robin Green stated that Benton County has a sales tax, and this ordinance is incorporating the modifications made recently by the State Legislature, specifically Act 180 of 2007. She said the Act is an attempt to stop the loss of sales tax revenue due to the rapid growth of internet sales, to level the playing field between local businesses and out of state businesses and to negate the undue burden on interstate commerce. She said the change that is pertinent to Benton County is that beginning January 1, 2008, local tax caps on single transactions will no longer apply, with the exception of the first \$2500 per item on the sale of motor vehicles, aircraft, water craft, manufactured homes, and modular homes. She said the ordinance will modify our Code of Ordinances to reflect the changes made by the State Legislature. JP Moore asked if this is revenue neutral. Richard McComas stated that he thinks it may slightly increase the tax base because it reduces the number of things that may be considered single use transactions.

Motion passed 11 votes in favor, 1 opposed (Glass).

#### **7. Ordinance Request: Levying 2007 Taxes for Collection in 2008**

JP Wozniak made motion to forward an ordinance to the December Quorum Court agenda, seconded by JP Harrison. Deputy Clerk Betsy Deaton stated that the draft ordinance is not complete, because the County Clerk is still waiting on data from the Washington County Assessor in order to enter the millage rates for those entities located in Washington County.

Motion passed by unanimous show of hands vote.

**OTHER BUSINESS:**

Richard McComas distributed a report showing sources of revenues and population growth estimates that was requested at the December 6<sup>th</sup> Finance Committee meeting.

JP Hubbard requested that an analysis of the Planning Department budget be placed on the January Committee of Thirteen agenda. He said they have two full years of revenue to look at now, and when the department was created it was specifically noted in the minutes that it should pay for itself, and they need to decide if they want to give it another year or look at the option of closing the department. He said he would contact Richard McComas, Ashley Pope, and the County Judge to make sure they are there to answer any questions.

JP Glass stated that also at the January Committee of Thirteen meeting he would like to discuss with Assistant County Administrator Travis Harp the County Judge's quarterly road report that is accordance with the ordinance that is in the books.

**ANNOUNCEMENTS:**

JP Moore announced that the Long Range Planning/Properties & Equipment Committee will meet on Tuesday, December 18, 2007 at 5:30 p.m.

JP Wozniak announced that the Environmental Committee will meet on Tuesday, January 8, 2008 at 5:00 p.m. to discuss enforcement of the unsanitary conditions ordinance.

JP Summers announced that the Finance Committee will meet January 8, 2008 at 2:30 p.m., the Committee of Thirteen will meet on January 8, 2008 at 6:00 p.m., and the Quorum Court meeting will be on December 20, 2007 at 5:00 p.m.

**PUBLIC COMMENTS:**

Don Day stated that they do not receive information in time to review it before the meeting, and the Regional Mobility Authority is probably a good thing, but it affects the environment, so it should have gone through the Environmental Committee so the public could have had a chance to review it. He requested that the Quorum Court agenda be changed to allow citizens to comment at the end of the meeting.

Dr. George Grane stated that he wanted to reinforce JP Winscott's idea of the importance of a 5-year long range plan, and hoped they would consider the formation of the Regional Mobility Authority, noting that the Northwest Arkansas Council has an excellent track record with projects such as Beaver Lake and the Northwest Arkansas Regional Airport.

Doug Timmons stated that the Regional Mobility Authority is generally a good idea, but there is no accountability to the Quorum Court if the County Judge is allowed to make appointments to the board, and that should be changed if the state law will allow it.

After motion and second the meeting was adjourned at 7:45 p.m.